BEFORE THE

LOUISIANA PUBLIC SERVICE COMMISSION

RFP 16-16 APPLICATION FOR RFP FOR OUTSIDE COUNSEL FOR DOCKET NO. U-32245 LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE. IN RE: AUDIT OF ENTERGY GULF STATES LOUISIANA, L.L.C.: CHARGES FLOWED THROUGH ITS FUEL ADJUSTMENT CHARGE, PURSUANT TO COMMISSION GENERAL ORDER U-21497 DATED NOVEMBER 6, 1997, FROM THE PERIOD BEGINNING JANUARY 1, 2005 THROUGH DECEMBER 31, 2009

PROPOSAL

OF

STONE PIGMAN WALTHER WITTMANN L.L.C.

AUGUST 23, 2016

I. INTRODUCTION

Stone Pigman Walther Wittmann L.L.C. ("Stone Pigman" or "the firm") hereby proposes to be considered for representation of the Louisiana Public Service Commission in response to the August 5, 2016 Request for Proposals for Outside Counsel (RFP 16-16) issued by the Commission for Docket No. U-32245 *Louisiana Public Service Commission, ex parte. In Re: Audit of Entergy Gulf States Louisiana, L.L.C.'s charges, flowed through its Fuel Adjustment Charge, pursuant to Commission General Order U-24197 dated November 6, 1997, from the period beginning January 1, 2005 through December 31, 2009.* That request seeks proposals from outside counsel to assist the in-house Staff Counsel in performing all tasks needed to complete Docket U-32245 up to and including the Commission's vote in that matter. The firm, as is evidenced by the included resume, meets and exceeds all the requirements set forth in this Commission's General Order *In Re: Rules Governing Selection of Contract Employment.* It also meets all requirements of the August 5, 2016 Request for Proposals.

Stone Pigman has extensive experience representing the Louisiana Public Service Commission in complex cases involving all aspects of utility regulation and involving the jurisdiction and authority of this Commission, bankruptcy issues affecting utilities subject to this Commission's regulation, and the many other issues related to utility deregulation. This experience includes, as is evidenced below, the presentation of complex cases involving accounting, taxation, depreciation, ratemaking adjustments, rate design, rate of return, cost-allocation, financial matters, mergers and acquisitions, and cost recovery on an administrative or judicial level, including the presentation of witnesses on direct examination, cross-examination of adverse witnesses, conducting discovery and the taking of appeals. This firm also has extensive and significant experience handling complex matters inside and outside of the utility arena. The firm has practiced before the FERC, SEC, FCC and other similar agencies. The firm consists of 62 attorneys and a large support staff, and is capable of, and experienced in, handling matters that may be prolonged, complex and involve multiple forums.

In addition, Stone Pigman has experience with the workings of FACs, or fuel adjustment clauses, appropriate costs passed through FACs and other mechanisms such as line items, and experience with public utility system agreements. Stone Pigman also has extensive experience and understanding of FERC and SEC regulatory proceedings, familiarity with and experience in dealing with affiliate transactions and cost sharing among company affiliates, experience in retail ratemaking proceedings, and periodic rate review proceedings. It has extensive experience in handling issues involving costs under the Entergy System Agreement. Stone Pigman has extensive knowledge of FERC and LPSC ratemaking and jurisdictional issues.

The attorneys who will be primarily engaged in the representation of the Commission have been actively engaged in the practice of law for at least five (5) years. The individuals are admitted to practice in the federal courts system and either are admitted to practice before the Supreme Court of the United States or are qualified to practice before the Supreme Court of the United States and any inferior federal court. Stone Pigman has represented this Commission for over thirty years and has meticulously avoided any representation that could result in a conflict of interest with Commission representation under the Rules of Professional Conduct of the State of Louisiana. Thus, it has no conflict with the proposed representation. Stone Pigman has professional liability insurance in the amount of $30,000,000 per claim.

A. PROPOSAL

Stone Pigman has had extensive experience involving the investigation of fuel audits and fuel adjustment clause practices, including applications of this Commission rules, regulations, and orders. Stone Pigman represented the Commission in the fuel audits for ELL for the years 2000-2004 in Docket U-25116. Stone Pigman has represented the Commission in investigations of the costs that Entergy Gulf States passed through to its consumers under its fuel adjustment clause. In the initial fuel investigation, Docket U-20247, the Commission Staff identified more than $27 million in excess fuel costs that EGSL had charged customers through its fuel clause. In the second investigation, Docket U-19904, the Staff identified more than $34 million in excess costs passed through the fuel clause. Stone Pigman represented the Commission in its investigation of TransLa and LIG, in Docket U-19997. In that investigation, the Commission Staff identified approximately $1 million in costs that TransLa had improperly flowed through its PGA to customers. The Commission Staff also identified approximately $11 million in costs improperly assessed by LIG to TransLa through LIG's WACOG. All of these amounts have been refunded to Louisiana ratepayers. Stone Pigman, in addition, represented the Commission in Docket No. U-21497 that resulted in the General Order setting forth standards for inclusion and exclusion of costs in the fuel adjustment filings for all electric utilities. In addition, it is representing the Commission in Docket U-22407, which established generic rules for PGA pass-throughs for gas utility PGA mechanisms. The investigation of this docket will require a comprehensive analysis of costs that ELL passed through its fuel clause. These are the same analyses performed by Stone Pigman in representing the Commission in the above dockets.

Stone Pigman represents the Commission in Entergy System Agreement proceedings. Energy charges paid pursuant to the System Agreement and energy purchase charges for transactions with others flow through the System Agreement.

Stone Pigman proposes to perform the function of Special Counsel in connection with the Louisiana Public Service Commission's examination of the issues raised regarding Entergy Gulf States Louisiana, LLC ("EGSL") and its affiliates in this proceeding. Stone Pigman understands that Staff Counsel will remain lead attorney in any and all future proceedings and it intends to work jointly with the Commission's in-house Staff Counsel, economists and analysts to the fullest extent possible consistent with the availability and workloads of the in-house Staff. It will also work with the outside consultants for these audits. Stone Pigman will perform all tasks included in the Scope of Work as set forth in RFP 16-16. In addition, Stone Pigman anticipates performing the following functions in the time frames listed. These time frames are merely estimates, and the windows provided will overlap. Despite the estimates Stone Pigman intends to proceed at a diligent pace on all phases of the representation in accordance with the needs of the Commission and its Staff, and in the best interest of consumers.

1. **Adversarial Process**. Represent the Commission in conducting a full investigation, including conducting discovery, assist in testimony preparation, preparing for and attending hearings before an Administrative Law Judge, filing pre and post hearing briefs, preparation and submission of presentations before the Commission at its Open Sessions and finalizing any order that may be issued. (90-120 days)

2. **Discovery.** Preparing and taking discovery from witnesses and parties adverse to or with positions inconsistent with Staff positions. Preparing for and taking depositions of witnesses. Obtaining other relevant data respecting adverse positions. Responding to discovery from other parties. (30-60 days)

3. **Testimony.** Assist in preparation of Staff testimony and other evidence.

4. **Hearings.** Representation of the Commission in hearings. Assisting in preparation of and presentation of Staff testimony. Defending Staff witnesses. Cross-examination of utility and intervenor witnesses, preparation for same. (14 days)

5. **Briefing.** Preparation of briefs, memoranda, proposed findings of fact and conclusions of law and other submittals required by the Presiding Administrative Law Judge. (30-60 days)

6. **Miscellaneous.** Formulating positions and arguing motions that arise in hearings. Taking all other actions necessary to fully represent the Commission. Meeting with and advising Commissioners, Staff, and Executive Secretary. (30 days)

7. **Commission Meeting.** Participation, if required, in oral argument before the Commission or making needed presentations to the Commission. (As needed)

8. **Potential Stipulation.** Participate in any stipulation settlement discussions. Prepare and analyze any stipulation terms. (As needed)

B. BUDGET

Stone Pigman proposes to perform in conjunction with the in house staff, all services required in RFP 16-16 and set forth above. Stone Pigman estimates that the professional fees to perform these services will not exceed $149,000 and expenses will not exceed $10,500. The Commission will be billed only for the actual time and expense incurred devoted to rendering services on behalf of the Commission. If the time expended supports a lower fee, the Commission will be billed only that amount. Any other services required including representation of the Commission in any appeals from any Commission orders issued, any related litigation in state or federal courts involving EGSL related to these issues will be performed by Stone Pigman at the hourly rates listed below, and the Commission will only be billed for the actual time and expense incurred.

The primary attorneys working on this matter will be Noel J. Darce and Paul L. Zimmering. Additional attorneys who may work on this matter are Michael R. Fontham, Dana M. Shelton, and Justin Swaim. The hourly rates range from $495 per hour for the most senior counsel to $230 per hour for associate time.

C. Qualifications

Stone Pigman has the experience needed to assist in this Docket. Stone Pigman represented this Commission in association with the approval and issuance of LPSC orders related to the prudence disallowance of costs associated with the Gulf State Utilities Co. (now Entergy Gulf States Louisiana) investment in the River Bend nuclear unit. [LPSC Docket No.

U-17282-B]. That proceeding involved a consideration of the recoverability of costs associated with a second River Bend unit that was cancelled. The Commission granted a recovery of that unit's sunk costs over ten years, but without a return on the investment during that period. [Order U-17272-D]. It represented the Commission in proceedings investigative of prudence issues relative to ELL's Waterford 3 nuclear unit. [Docket U-19645-B]. It represented this Commission in proceedings related to the prudence of Cajun Electric's purchase of a portion of the River Bend nuclear unit. [U-17735]. The firm also represented the LPSC before the FERC in a docket related to the cancelled Grand Gulf 2 unit and a related docket which developed the federal wholesale policy for cost recovery associated with abandoned plant (FERC Dockets ER84-646 and ER85-647). It also represented the Commission in proceedings related to cancelation costs regarding the Wilton and St. Rosalie plant sites. [Order Nos. U-17206, U-12636, and U-17649 (1989)].

II. ADDITIONAL QUALIFICATIONS

Stone Pigman has represented the Commission in most of the major electric utility rate cases brought before the Commission since 1976. In one of the cases in which it did not participate before the Commission, the firm was retained to represent the Commission on appeal and successfully defended the Commission's decision. Stone Pigman also has represented the Commission in rate proceedings involving telephone, water, gas local distribution, interstate and intrastate pipeline companies. The firm has represented the Commission in numerous proceedings involving mergers and acquisitions including the Entergy/GSU merger, the CSW/AEP merger, the acquisition of Cajun's assets by Louisiana Generating, the CLECO/TECHE acquisition and the SWEPCO/BREMCO acquisition. The firm also has represented the Commission before the FERC, the Securities and Exchange Commission and the Federal Communications Commission in proceedings involving ELI, EGSI and other Entergy companies (electric), Louisiana Gas Service Company (a division of Citizens Utility Company), TransLouisiana Gas Company (a wholly-owned subsidiary of Atmos Energy Corporation), Arkla (a division of NorAm Gas Transmission Company) (natural gas) and Bell South Telecommunications (formerly South Central Bell Telephone Company) (telecommunications).

Stone Pigman has represented the Commission in proceedings before the Supreme Court of the United States, the United States Court of Appeals for the District of Columbia Circuit, the United States Court of Appeals for the Fifth Circuit, the United States District Court for the Middle District of Louisiana, the United States Bankruptcy Court, Middle District of Louisiana, the Supreme Court of Louisiana, and the Nineteenth Judicial District Court for the Parish of East Baton Rouge. In addition, Stone Pigman has represented the Commission in negotiations with regulatory agencies in other jurisdictions, including the Public Utilities Commission of Texas, the Arkansas Public Service Commission, the Mississippi Public Service Commission, and the New Orleans City Council. Stone Pigman has acted on behalf of the Commission in mediating litigation between two public utilities, Gulf States Utilities Co. and Cajun Electric Power Co., in the United States District Court for the Middle District of Louisiana.

In representing the Commission, Stone Pigman attorneys have developed a thorough understanding of the issues involved in prudence inquiries, abandoned or cancelled plant, mergers and acquisitions, issues involving the ratemaking process, the relationship of accounting to ratemaking, cost allocations, utility taxation, utility depreciation, and similar matters. Additionally, and perhaps more importantly, Stone Pigman has historic knowledge of the rulings of the Commission, the Louisiana Supreme Court and the Nineteenth Judicial District Court in matters affecting Louisiana ratemaking and electric utilities. This knowledge will permit Stone Pigman to deal with complex issues in an expeditious, efficient and sophisticated manner.

Major accomplishments of the Commission when represented by Stone Pigman include the following:

1. **2001 System Agreement FERC Proceeding $159 Million in Annual Benefits**

In FERC Docket EL01-88-000, this firm represented the Commission by filing a Complaint alleging that the production costs of the Entergy System Agreement were no longer in rough equalization and that they should be equalized. A FERC ALJ ruled in favor of the Commission's position in February 2004 and ordered adjustments to the allocation of production costs that could provide to ELI and EGSI-La ratepayers tens of millions in benefits in future years. The FERC affirmed many of the findings of the ALJ and ordered a remedy that will particularly remedy the undue discrimination. The matter is on appeal to the D.C. Circuit seeking additional remedies. Entergy estimates Louisiana ratepayers of ELL would benefit by approximately $59 million for the 2006 test year, as EGSI-La customers would benefit by approximately $100 million. These are annual amounts that will fluctuate every year depending on natural gas prices.

2. **Cajun Electric Power Cooperative: $204.9 Million in Benefits**

Stone Pigman acted as Special Counsel in the Commission's investigation of Cajun's investment in the River Bend Nuclear Power Plant and the Commission's analysis of Cajun's rates. The Commission disallowed Cajun's investment in the River Bend plant, and ordered that Cajun reduce its rates by $30,230,000 (approximately a 10% decrease). This lowered Cajun's rates to its members from approximately 54 mills to 48.6 mills. In December, 1994 Cajun filed for Chapter 11 relief under the United States Bankruptcy Code. Subsequently, rates were reduced to approximately 40 mills. Stone Pigman has acted as Special Counsel to the Commission in the Cajun bankruptcy proceedings, all associated adversary proceedings and the Commission's investigation related to the competing bankruptcy plans of reorganization. These efforts resulted in approximately $195 million in refunds and hundreds of millions of dollars of ratepayer savings in lower rates.

3. **Entergy/GSU Merger.**

Acting for the Commission, and with the help of consultants, Stone Pigman developed and implemented the strategy for protecting and benefiting the public in the Entergy/Gulf States merger proceedings. Stone Pigman supervised the development of the rate benchmark sharing plan that was adopted by the Commission. A similar plan ultimately was

adopted in Texas. Stone Pigman represented the Commission in securing the adoption of the merger conditions advocated by the Louisiana Commission at the FERC and defeating the regulatory proposals of regulatory agencies in Arkansas, Mississippi and New Orleans.

4. CSW/AEP Merger.

Stone Pigman represented this Commission in proceedings before this Commission, the FERC and SEC related to the merger of AEP and CSW. That merger was approved with a comprehensive mitigation hold-harmless provision in place to protect Louisiana ratepayers from merger impacts and the adoption of a service quality improvement program for the Louisiana operations of SWEPCO.

5. Grand Gulf Allocation: Over $3.0 Billion Benefit to LPSC Jurisdictional Ratepayers.

The Middle South Utilities System (now the Entergy System) proposed to allocate nearly 70 percent of Grand Gulf Nuclear Station, located in Mississippi, to Louisiana Power & Light Co. and New Orleans Public Service, Inc. (now ELI and EGSI respectively). The allocation would have cost Louisiana ratepayers an additional $700 million per year. The Commission, through Stone Pigman, with the help of an expert consultant, submitted a plan that ultimately was adopted by the FERC, which assigned 14 percent of the unit to LP&L and 17 percent to NOPSI. The allocations to Arkansas Power & Light Co. and Mississippi Power & Light Co. were increased. The FERC decision was upheld by the United States Court of Appeals for the District of Columbia Circuit and review was denied by the Supreme Court of the United States.

As a result of this decision, Louisiana ratepayers thus far have saved more than $3 billion. In addition to the savings to ELI ratepayers, the savings to ENOI ratepayers far exceed $1 billion alone.

6. Post-Merger EGSI Rate and Fuel Review Proceedings -- $482 Million in Refunds and Rate Reductions.

Stone Pigman has acted as Special Counsel to the Commission in two fuel reviews and several rate reviews of Gulf States Utilities Company (now EGSI). These reviews were all undertaken after the Entergy/GSU merger. Since 1994 these reviews have resulted in Commission Orders requiring Gulf States to reduce rates or refund amounts in excess of $482 million.

7. Post-Merger ELI Rate Proceedings -- $747 Million in Rate Reductions.

Stone Pigman has acted as Special Counsel to the Commission in one General Rate case and subsequent annual rate reviews of Louisiana Power & Light Company (now ELI). To date these earning reviews have resulted in more than $747 million in rate reductions.

8. South Central Bell Depreciation: $248 Million in Refunds.

In 1983, the Federal Communications Commission issued an order purportedly preempting state depreciation rates and requiring the use of FCC-mandated rates. The Commission fought this ruling in federal court, using Stone Pigman as special counsel. Ultimately, in *Louisiana Public Service Commission v. Federal Communications Commission*, the United States Supreme Court ruled that the FCC could not preempt state-prescribed depreciation rates. The decision produced refunds to customers of $248 million. The average customer received about $140.

9. LP&L-Texaco Settlement: $1.3 Billion in Refunds and Benefits.

The Commission, through Stone Pigman, engaged in settlement negotiations with LP&L and Texaco, Inc. relating to Texaco's breach of a long term contract to provide natural gas for boiler fuel to LP&L. The total value of the settlement was $1.3 billion. The participation of the Commission produced cash guarantees backing up a pledge by Texaco of fuel savings that would be provided to LP&L of approximately $300 million. An amount in excess of $300 million ultimately was realized in fuel savings by LP&L ratepayers.

The settlement produced more than $1 billion in refunds to ratepayers, more than $300 million in fuel savings, and lower rates through a ten-year rate base reduction plan by utilizing a portion of the Texaco proceeds.

10. River Bend Disallowance: $650 Million to Louisiana Customers.

Gulf States Utilities Co. constructed the River Bend nuclear plant at a cost of approximately $4.4 billion. Gulf states owns 70 percent of the unit, with an investment of $3 billion. After an extensive review, the Commission disallowed $1.4 billion of Gulf States' investment in River Bend. This case was appealed by Gulf Sates to the Nineteenth Judicial District Court and Stone Pigman was retained to defend the Commission. The court affirmed the ruling. The Louisiana Supreme Court also affirmed the disallowance.

The decision affirming the disallowance avoids the requirement that Louisiana ratepayers pay the Louisiana share of $1.4 billion -- approximately $650 million. If this amount were included in the rate base, Gulf States' rates would be approximately 17 percent higher, or about $125 million per year.

11. United Gas Litigation: $306 Million in Refunds and Benefits.

United Gas Pipeline Co. breached contracts with Gulf States Utilities Co. and Louisiana Power & Light Co. to provide natural gas for boiler fuel to generate electricity. The Commission intervened in the proceedings. The claims of Gulf States were settled for $113 million and a judgment was rendered in favor of LP&L for $193 million. The recoveries produced refunds to customers of Gulf States and lower rates to customers of LP&L.

12. **TransLa/LIG Gas Cost Investigation -- $12 Million.**

Stone Pigman served as Special Counsel to the Commission in a comprehensive investigation of the gas costs paid by the customers of TransLa. As a result of the investigation TransLa customers received credits of approximately $12 million.

13. **Other Matters.**

Stone Pigman has represented the Commission in numerous other matters. Some of the achievements include:

a. **Nuclear plants.** Restricting the size of rate increases necessary to bring into the rate base the Waterford 3 nuclear plant, owned by ELI, and the Grand Gulf nuclear plant, owned by Gulf States.

b. **Telephone rates.** Representing the Commission in the rate investigation which led to successive orders reducing the rates of South Central Bell Telephone Co. The rate cases were eventually settled and refunds made to customers.

c. **FERC tariffs.** Achieving rate reductions and refunds to ELI customers under tariffs charged ELI for the Grand Gulf nuclear plant and for interchange transactions involving the Entergy System Agreement. The rate of return allowed Entergy has been reduced in successive cases from 16 percent to 11 percent, saving millions of dollars to ELI customers. $4 million in refunds was provided ELI customers as a result of a rate of return reduction.

d. **Grand Gulf 2 write-off.** Participating in negotiating the write-off by Entergy Corp. of Grand Gulf 2, an abandoned nuclear project, in the amount of approximately $1 billion. Further negotiating the so-called "Olive Branch" settlement, in which $21.5 million in refunds and credits were given ELI customers.

e. **Jurisdiction over cooperatives.** Establishing the jurisdiction of the Commission over Louisiana electric cooperatives, including Cajun Electric Power Corp., in a decision rendered by the Louisiana Supreme Court. (Stone Pigman was not paid for the representation.) Establishing the Commission's jurisdiction over class action suits for rate rebates in both the Louisiana Supreme Court (the *Trans-La* case) and federal court (the *Durwood Wilson* case).

Stone Pigman often handles miscellaneous matters for the Commission without compensation. Stone Pigman was not compensated in at least two jurisdictional disputes in which it represented the Commission. Stone Pigman has foregone fees far in excess of $500,000 in matters in which it represented the Commission.

Stone Pigman has turned down a number of major representations because of potential conflicts with its representation of the Commission or because the representations would be inconsistent with Stone Pigman's ongoing advocacy of the Commission's positions. The representations foregone by Stone Pigman include representing utilities on a variety of issues, representing parties whose claims might come before the Commission, and taking issues that might substantially, although indirectly, raise utility rates.

Résumés of individual attorneys who may assist in any Commission representation are attached. In addition, a general firm description is attached.

III. INDIVIDUAL RÉSUMÉS OF STONE PIGMAN ATTORNEYS

MICHAEL R. FONTHAM
BIOGRAPHICAL INFORMATION

Michael R. Fontham is a member in the New Orleans law firm of Stone Pigman Walther Wittmann L.L.C. engaging in a litigation practice. He is a graduate of the University of Virginia Law School, where he was a member of the Virginia Law Review and Order of the Coif. Mr. Fontham was a visiting law professor at the University of Virginia in 1982-83 and currently teaches at the Tulane University Law School. He also has been an adjunct professor at the LSU Law Center and an instructor in the Trial Advocacy Institute at the University of Virginia, in skills courses at the Law School at Loyola University, and in the Louisiana Judicial College.

Mr. Fontham recently completed *Trial Technique and Evidence*, a text on trial advocacy and the evidence rules published by Michie Butterworth. He is also the author of *Written and Oral Advocacy*, a treatise on brief writing, oral argument and legal research published by John Wiley & Sons. He has authored a number of articles and delivered numerous lectures on trial and appellate advocacy, evidence, utility regulation, and civil rights issues.

MICHAEL R. FONTHAM

Stone Pigman Walther
Wittmann L.L.C.
546 Carondelet Street
New Orleans, Louisiana 70130

1470 Joseph Street
New Orleans, Louisiana 70115

Work Experience:

1. Partner

Stone Pigman Walther Wittmann L.L.C. 546 Carondelet Street New Orleans, Louisiana

Employment 1971 to Present

General practice with emphasis on litigation. Areas of litigation experience include public utility law, complex business disputes, constitutional law, construction contract disputes, antitrust, employment discrimination, and various other areas. Considerable experience in appellate litigation in the federal and state courts.

Special public representations:

Special Counsel, Louisiana Public Service Commission, handling the review and analysis of major rate applications, the defense of appeals from orders entered in major rate cases, and interventions in federal and state administrative and judicial proceedings affecting Louisiana rates (1976-).

Special Counsel, Louisiana Energy Power Authority and Lafayette Public Power Authority, retained to represent the authorities in the Supreme Court of Louisiana and other forums in litigation relating to the imposition of an ad valorem tax assessment on a coal-fired generating unit owned by the authorities (1985-87).

Special Counsel, Louisiana Municipal Power Commission, retained for the representation of the Commission in the Supreme Court of Louisiana concerning the constitutionality of the statute creating and providing powers to the Commission (1978).

Special Counsel, New Orleans Aviation Board, retained to represent the Board in litigation for the recovery of damages relating to the catastrophic failures of the asphalt concrete runways at the New Orleans International Airport (1979-84).

Special Counsel, tax recipient public bodies of Iberville Parish and West Baton Rouge Parish, Louisiana, retained for litigation involving the validity and constitutionality of certain industrial tax assessments in these parishes (1981-87).

Special Counsel, St. Tammany Parish, Louisiana, retained for litigation involving the constitutionality and validity of a special sales tax district created by the Parish (1987-88).

Special Counsel, City of Plaquemine, Louisiana, retained to represent the City in contract dispute with an industrial customer of the City's electric system and in litigation relating to construction defects in the City's sewerage treatment plant.

Court appointments include appointments in the areas of prisoner rights, criminal defense, and employment discrimination.

2. Visiting Professor of Law
School of Law
University of Virginia
Charlottesville, Virginia 22901
Subjects: Constitutional Law
Appellate Advocacy
Antitrust Law
Evidence

1982-83

3. Adjunct Professor of Law
The Law Center
Louisiana State University
Baton Rouge, Louisiana
Subjects: Constitutional Law
Appellate Advocacy
Antitrust Law
Problems of Proof
Evidence

1974-

4. Adjunct Professor of Law, School of Law
Tulane University
New Orleans, Louisiana
Subject: Evidence
1987-
Monte Lemann Award for Adjunct Faculty,

Distinguished Teaching, 1992, 1998

Tulane Univ. Summer School at Paris
Paris, France
Subject: Trial Litigation and Procedure on the Continent; a Comparison to the United States
1991, 1995

Tulane Univ. Summer School in Greece
Malia, Crete
Subject: Comparative Procedure and Evidence
1997, 1998

5. Instructor, Trial Clinical Program
School of Law
Tulane University
New Orleans, Louisiana
1972-76

6. Faculty member
University of Virginia Institute
of Trial Advocacy
1983-86, 1989-

7. Instructor, Advanced Skills Program
School of Law
Loyola University
New Orleans, Louisiana
1986-89

8. Instructor, Constitutional Law,
Louisiana Bar Review, Louisiana
State University, 1987-88

9. Admissions: Supreme Court of the United States
United States Court of Appeals
for the Fifth Circuit
United States Court of Appeals
for the District of Columbia
United States Court of Appeals
for the Eleventh Circuit
Supreme Court of Louisiana and
the state courts of Louisiana
United States District Court for the
Eastern District of Louisiana
United States District Court for the

Middle District of Louisiana
United States District Court for the
Western District of Louisiana

10. Member: American Bar Association
Louisiana State Bar Association
Federal Energy Bar Association
Former member, Committee on Legal Education and Admission to the Bar of the New Orleans Bar Association

Education:

J.D., 1971
School of Law
University of Virginia
Charlottesville, Virginia

Honors: "Z" Society Book Award, Highest Academic Ranking in Class of 1971
Order of the Coif
Virginia Law Review

B.A. (Journalism), 1968
Louisiana State University
Baton Rouge, Louisiana
Editor, *The Daily Reveille*

Publications:

Books

TRIAL TECHNIQUE AND EVIDENCE (2d ed., LEXIS/NEXIS 2002) (Treatise on trial advocacy and evidence).

PERSUASIVE WRITTEN AND ORAL ADVOCACY IN TRIAL AND APPELLATE COURTS (Aspen, 2002) (with Michael Vitiello and David W. Miller) (Treatise on brief writing, oral argument, legal research, and specific appeal issues).

WRITTEN AND ORAL ADVOCACY (John Wiley & Sons, 1985).

Other Publications

TEACHER'S MANUAL, TRIAL TECHNIQUE AND EVIDENCE (2002) (Practical Evidence, Evidence Problems, Trial Advocacy).

EVIDENCE PROBLEMS FOR USE WITH TRIAL TECHNIQUE AND EVIDENCE (Michie, 1996).

Seeking and Opposing Appellate Review, Fifth Circuit Reporter, vol. 2, no. 12, p. 551 (1985).

After Weber: An Analysis of the Supreme Court's Endorsement of Racial Preferences for Minorities, Labor Law Developments 1980, Southwestern Legal Foundation, Matthew Bender & Co. (1980).

Developments in the Law 1980-1981 - *A Faculty Symposium: Antitrust Law*, 42 La. L. Rev. 484 (1982).

Developments in the Law 1979-1980 - *A Faculty Symposium: Antitrust Law*, 41 La. L. Rev. 417 (1981).

Note, *Confrontation and Cross-Examination in Executive Investigations*, 56 Va. L. Rev. 487 (1970).

The Proposed EEOC Guidelines: Legislation of Employment Discrimination Against White Males, Journal of Intergroup Relations, Vol. VI, No. 4, p. 30 (Dec. 1978).

Lectures and Seminars:

Appellate Advocacy:

"Introduction to Oral Argument, Fifth Circuit Appellate Practice and Advocacy Institute," New Orleans, Louisiana, 2001-04.

"Oral Argument: How to Do Better and Make Your Points," LSU Appellate Law Seminar, Baton Rouge, Louisiana, 2003.

"Demonstration Argument," 13th Appellate Practice Institute, ABA Council of Appellate Lawyers, Reno, Nevada, 2002.

"Brief Writing and Appellate Advocacy," North Louisiana Defense Lawyers, Shreveport, Louisiana, 2002

"Using the Facts in Your Argument," National Bankruptcy Training Institute, National Advocacy Center, Columbus, SC, 2001.

"Preparing and Presenting Oral Argument," Panel Discussion, Critique and Oral Argument Demonstration, Fifth Circuit Appellate Practice and Advocacy Seminar, New Orleans, Louisiana, 1997.

"Brief Writing," Baton Rouge Bench/Bar Conference, Perdido, Florida, 1997

"Brief Writing and Oral Argument," LSBA Summer School for Lawyers, Sandestin, Florida, 1995.

"Appellate Advocacy, Brief Writing, Oral Argument, Ethics on Appeal," National Bus. Inst., Baton Rouge, Louisiana, 1995.

"Ten Rules for Writing the Argument," Post Graduate Summer School for Lawyers, Louisiana State University Law Center, 1993.

"Brief Writing and Oral Argument," to Moot Court Students, McGeorge University School of Law, 1993, 1994, 1995, 1996, 1997.

"Oral Argument," to Moot Court Students, McGeorge University School of Law, 1992.

"Writing the Brief," CLE Appellate Practice Seminar, New Orleans, Louisiana, 1990.

"Brief Writing, " annual lecture to participants in Moot Court Competition, Law School, Louisiana State University, 1977, 1978, 1979, 1980, 1981, 1982, 1983.

"Oral Argument," annual lecture to participants in Moot Court Competition, Law School, Louisiana State University, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1996, 1997 (1994 Moot Court Award, Contribution to Appellate Advocacy).

Oral Argument Introduction and Critique, Fifth Circuit Appellate Practice and Advocacy Seminar, New Orleans, Louisiana, 1999, 2000.

Effective Appellate Advocacy, LADC North Louisiana Seminar, Shreveport, Louisiana, 2000.

Effective Presentation of Writ Applications, Writ Practice Seminar, Louisiana Bar Association, New Orleans, Louisiana, 2000.

"Brief Writing," lecture to participants in Moot Court Competition, Law School, Loyola University of New Orleans, 1985, 1986, 1987.

"Oral Argument," lecture to participants in Moot Court Competition, Law School, Loyola University of New Orleans, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1996, 1997.

"Oral Argument," lecture to participants in Legal Writing Program, Law School, Tulane University, 1986, 1987.

"The Decision to Appeal, " Bar Association Appellate Advocacy Seminar sponsored by the Fifth Circuit and the SMU School of Law (Dallas, Texas, 1985) (as substitute for Phillip A. Wittmann).

"Writing and Arguing the Motion," Motion Practice Seminar, Law School, Loyola University, 1986.

Evidence and Trial Advocacy:

"Evidence and Procedure," Louisiana Judicial College, New Orleans, Louisiana, 2003.

"Developments Since Daubert," New Orleans Bar Association Masters of the Courtroom Seminar, New Orleans, Louisiana, 2001

Evidence for Assistant United States Attorneys Seminar, "Overview," Columbia, S.C., 2000.

"Gathering and Presenting Evidence," LADC North Louisiana Seminar, Shreveport, Louisiana, 2000.

Panel Discussion, Annual Evidence and Procedure Seminar, Louisiana Judicial College, 2000.

"Techniques for Direct and Cross Examination," Trial Advocacy Seminar, Louis Martinet Society, Baton Rouge, Louisiana, 2000.

Chair, "Anatomy and Mechanics of Trial; A Mix of Advocacy and Evidence, " and Presentations on Cross-Examination and Impeachment, Louisiana State Bar Association, New Orleans, Louisiana, 1997.

Chair, "A Closer Look at Using the Evidence Rules, " and Presentation on Trial Preparation and Direct Examination, Louisiana State Bar Association, New Orleans, Louisiana, 1996.

Co-Chair and panelist on evidence issues, Louisiana Civil Procedure and Evidence, Tulane University, Continuing Legal Education Seminar, 1996.

Lecture and Demonstration, Seminar on Louisiana Evidence Law, Summer School for Judges in Joint Session with Summer School for Lawyers, Sponsored by Louisiana Bar Association, Sandestin, Florida, 1990.

Panelist, Seminar on Louisiana Evidence Law, Louisiana Judicial College, New Orleans, Louisiana, 1987.

Lecture and Demonstration, Seminar on Louisiana Evidence Law, Louisiana Judicial College, New Orleans, Louisiana, 1988, 1989.

"Ethics in Litigation," Tulane University Continuing Legal Education Seminar, 1993.

"The Big Case -- Evidence Issues, " Tulane University Continuing Legal Education Seminar, 1993.

Advanced Evidence, "Louisiana versus Federal Rules, " Tulane University Continuing Legal Education Seminar, 1993.

"Trial Advocacy," Tulane University Moot Court, 1993.

"Ethics in Litigation," CLE in the CBD, Loyola University, 1989.

"Ethics in Litigation," Fourth Annual Evidence Law Conference, Loyola University, 1989.

Panelist, Seminar on Louisiana Evidence Law, CLE Litigation Institute, Tulane University, 1988.

Lecture and Demonstration, Louisiana Evidence Law, CLE Litigation Institute, Tulane University, 1989.

Faculty Member, Louisiana Association of Defense Counsel, 1990 Trial Academy, New Orleans, Louisiana.

"Special Problems in Federal Trial Practice -- Opening Statement and Closing Argument," Federal Law Institute, New Orleans, Louisiana, 1990.

"Special Evidence Problems," 1990 Defense Lawyers' Seminar, New Orleans, Louisiana.

"Ethics in Litigation Under the New Ethics Code," Loyola University Evidence Seminar (Sept. 9-10, 1988).

"Louisiana Federal Rules of Evidence," Professional Education Systems, Inc., Oct. 2, 1986, Baton Rouge, Louisiana and Oct. 3, 1986, New Orleans, Louisiana.

Panelist, Seminar on Louisiana Evidence Law, Tulane University, September 16, 1988.

Demonstration, "Direct Examination of an Expert Witness," Law and Medicine Seminar sponsored by Tulane University, Nov. 14, 1986.

Utility Regulation:

"The Louisiana Public Service Commission and Utility Regulation, " University of New Orleans Government Leadership Institute, 1993.

"The Proposed Model Settlement Code," Annual Meeting, National Association of Regulatory Utility Commissioners, New Orleans, Louisiana, 1987.

"The Narragansett Doctrine," Winter Meeting of the Federal Energy Bar Association, Washington, D.C., 1986.

"Deregulation and Divestiture - the Bell System," National Convention, Society of Telecommunications Consultants, New Orleans, La., 1982.

Lecture on status of federal energy litigation affecting Louisiana, Louisiana Energy Development Study Commission Conference, Lafayette, Louisiana, 1985.

Lecture on status of federal energy litigation affecting Louisiana, Louisiana Energy Development Study Commission Conference, Lafayette, Louisiana, 1984.

Significant and Public Litigation:

Cases involving public utility regulation:

In re Cajun Electric Power Coop. – successfully represented Louisiana Public Service Commission against bankruptcy trustee in United States Court of Appeals for the Fifth Circuit and other federal courts, securing approximately $195 million in refunds to distribution cooperatives and customers for interest collections during bankruptcy of generation cooperative.

Louisiana Public Service Commission v. Entergy Services, Inc. (on exceptions to FERC) – obtained favorable Initial Decision from Administration Law Judge at the Federal Energy Regulatory Commission reallocating production costs among companies in the Entergy System, with annual potential benefit to Louisiana customers in excess of $100 million.

Entergy Louisiana, Inc. v. Louisiana Public Service Comm'n – represented Louisiana Commission in federal preemption case in the United States Supreme Court in which LPSC's Order was deemed preempted by a FERC tariff; the Court avoided the issue of whether state agencies my interpret FERC tariffs and determine whether violations have occurred.

Middle South Energy, Inc. and Middle South Services, Inc. - represented the Louisiana Commission in successful litigation before the Federal Energy Regulatory Commission and federal appellate courts regarding the allocation of the $3.3 billion Grand Gulf nuclear generating unit and the allocation of generating costs on the Middle South Utilities System.

Rural Utilities Service v. Louisiana Public Service Commission - represented Louisiana Commission in the United States Court of Appeals for the Fifth Circuit in defeating RUS attempts to preempt state ratemaking power over rates of a debtor-cooperative.

Louisiana Public Service Commission v. Federal Communications Commission - represented the Louisiana Commission in successful appeal at the United States Supreme Court of the decision of the FCC to preempt depreciation practices for intrastate ratemaking.

Entergy Corp. Gulf States Utilities Co. Merger Proceeding - successfully represented the Commission in proceedings that established regulatory conditions for the Entergy/GSU merger. Represented the Commission before the Federal Energy Regulatory Commission, which adopted the conditions proposed by the Louisiana Commission and rejected proposals put forth by other jurisdictions.

Cajun Electric v. Louisiana Public Service Commission - successfully represented Louisiana Commission in the Louisiana Supreme Court in asserting jurisdiction over electric cooperatives, which required invalidation under the Louisiana Constitution of a statute preventing the Commission from regulating cooperative rates.

In re Cajun Electric Power Coop - represented the Louisiana Commission in rate proceeding in which cooperative's ownership share of $4.4 billion River Bend nuclear power plant was disallowed as imprudent and not used and useful.

Gulf States Utilities Co. v. Louisiana Public Service Comn - successfully represented the Louisiana Commission in litigation concerning the prudence of the River Bend I nuclear plant constructed by Gulf States and the $1.4 billion disallowance of construction costs by the Commission.

Louisiana Public Service Commission v. Federal Communications Commission - represented the Louisiana Commission in the United States Court of Appeals for the District of Columbia Circuit in unsuccessful appeal of the decision of the FCC to deregulate telephone terminal equipment offerings by forbidding state commissions from exercising their regulatory power over these offerings.

South Central Bell Telephone Co. v. Louisiana Public Service Commission - represented the Louisiana Public Service Commission in a case in which regulatory adjustments of the Commission were approved by the Louisiana Supreme Court and review was denied by the U.S. Supreme Court.

South Central Bell Telephone Co. v. Louisiana Public Service Commission - represented the Louisiana Commission in litigation in which the Louisiana Supreme Court ruled that the Commission could require the telephone company to fill all orders for telephone service within 30 days, despite the company's claim that financial weakness precluded it from doing so.

Gulf States Utilities Co. v. Louisiana Public Service Commission - represented the Louisiana Commission. The Louisiana Supreme Court ruled that the Commission could deny current earnings on construction work in setting the utility's rates.

Cases involving constitutional and public policy issues (other than utility matters):

United Steelworkers of America v. Weber - pursuant to court appointment, unsuccessfully represented class of white workers in suit attacking a 50 per cent racial quota at the Gramercy plant of Kaiser Aluminum and Steel Corp. The U.S. Supreme Court overturned lower court rulings and approved the quota, which gave preference to minority employees for entry into craft training programs.

Schwegmann Bros. Giant Super Markets v. Louisiana Milk Commission - represented Schwegmann in suit in which a federal district court and the U.S. Supreme Court ruled that price fixing of out-of-state milk purchases violated U.S. Constitution.

Louisiana Dairy Stabilization Board v. Dairy Fresh Corp. - represented Dairy Fresh in federal court litigation in which an attempt to place assessments on milk produced out of state

was invalidated as unconstitutional. The decision of the U.S. Court of Appeals for the Fifth Circuit was affirmed by the Supreme Court.

Board of Commissioners of Louisiana Municipal Power Comm'n v. Taxpayers, et al. - represented a public power commission in Louisiana Supreme Court case that overruled a lower court and upheld the authority of the commission under the state constitution and statutes to issue certain revenue bonds.

Schwegmann Bros. Giant Super Markets v. Edwards - represented Dairy Fresh Corp. and Schwegmann Bros. Giant Super Markets in state court litigation resulting in a court order requiring the issuance of a permit for the importation of Dairy Fresh milk from Mississippi to Louisiana.

Holland v. Donelon - by court appointment, represented the class of inmates of the Jefferson Prison in federal district court litigation resulting in orders to correct unconstitutional conditions at the prison, including orders imposing a prisoner population limitation, requiring medical treatment, requiring regular exercise, requiring beds, towels, that the prisoners be provided soap and other supplies, and correcting other conditions. In a related case involving First Amendment rights of prisoners, an order securing certain rights was entered after federal mediation.

Fontham v. McKeithen - represented plaintiffs in litigation that successfully achieved, through a settlement with the State while the case was pending in the United States Supreme Court, the invalidation of Louisiana's one year residency requirement for voting and other waiting period restrictions on voting.

Broussard v. Distefano - represented female teacher in federal court litigation resulting in the invalidation of a Louisiana school board's mandatory leave requirement for pregnant teachers.

Hingle v. Avondale Shipyards - pursuant to court appointment, represented a plaintiff in a federal employment discrimination suit that was consolidated with and settled as part of overall class action settlement between minority workers and employer.

Schwegmann Bros. Giant Super Markets v. Donelon, et al. - represented Schwegmann in litigation that required Jefferson Parish to issue a permit for the construction of the Bissonet Plaza store, after the Parish Council attempted to change zoning ordinances to block construction of the store.

Other significant cases:

City of New Orleans through New Orleans Aviation Board v. Vicon, Inc., et al .- represented the Aviation Board in successful suit against the contractor, engineer and testing laboratory responsible for defective asphalt overlays on runways at the New Orleans International Airport.

Iberville Parish Tax Litigation - successfully represented tax recipient public bodies of Iberville Parish in litigation brought by Dow Chemical Co. concerning tax assessments of the Dow Chemical plant in the parish.

Civic and Miscellaneous:

Member, LSU Foundation, Louisiana State University.

Past Member, LSU Eye Center Foundation Development Board.

Co-chairman, Special Gifts Committee, Archbishop's Community Appeal (1987).

Chairman, Archbishop's Community Appeal (1988).

Past Member, Catholic Charities Association Board.

Past Chairman, Louisiana Advisory Committee, United States Commission on Civil Rights.

University of Virginia Alumni Club of Louisiana - past president and vice president.

Chairman, Judge Albert Tate, Jr. Memorial Foundation fundraising drive.

Past Member, Board of Directors, Common Cause of Louisiana.

Past Member, Board of Directors, Covenant House of New Orleans.

Past Chairman, Development Committee, Covenant House of New Orleans.

Past Member, Board of Directors, Lazarus House of New Orleans.

PAUL L. ZIMMERING
BIOGRAPHICAL INFORMATION

Paul L. Zimmering is a member in the law firm of Stone Pigman Walther Wittmann L.L.C. He graduated from Brown University in 1970 with a B.A., in 1971 from Brown University with a Master of Arts in Teaching and in 1976 from Tulane University School of Law, Order of Coif. He was a member of the Tulane Law Review from 1974-1976 and was Assistant Editor in 1975-1976. Mr. Zimmering was the author of the following pieces which appeared in the Tulane Law Review: Note, *Constitutional Law-Liability For Defamation Of Private Persons-New Standards,* Tulane Law Review, Vol. 49, 1974-1975; Note, *Divorce-Relitigation Of Fault For The Purpose Of Alimony,* Tulane Law Review, Vol. 49, 1974-1975; Comment, *Louisiana's Consumer Protection Law-Three Years Of Operation,* Tulane Law Review, Vol. 50, 1976; Article, Co-authored with Honorable John A. Dixon, Jr. and Robert W. Booksh, *Res Judicata In Louisiana Since Hope v. Madison,* Tulane Law Review, Vol. 51, 1977.

Since 1989, Mr. Zimmering has taught a course at Tulane University School of Law entitled "Energy Law". The course is an overview of public utility regulation nationwide with emphasis on regulation of electric utilities in Louisiana. Mr. Zimmering is currently an Associate Professor of Law at Tulane University.

Prior to entering law school, for two years Mr. Zimmering taught World History, Government and Social Studies at George Mason Junior/Senior High School in Falls Church, Virginia. Prior to becoming a member of the firm, Mr. Zimmering was a law clerk for the Honorable John A. Dixon, Jr., Justice of the Louisiana Supreme Court from 1976-1977. He is a member of the Louisiana State American Bar Association. Mr. Zimmering's practice has included various aspects of commercial litigation. Since becoming a member of the firm, he has

represented clients in litigation involving anti-trust, construction litigation, defamation, hazardous waste and asbestos litigation, licensing and copyright matters, lease agreements and property and zoning matters. Mr. Zimmering successfully represented several national film distributors, including Paramount, Universal, MGM, Columbia, Twentieth Century Fox and Warner Brothers in a Sherman Act Claim brought by a film exhibitor in Memphis, Tennessee.

Since coming to the firm in 1977, Mr. Zimmering has spent a majority of his time representing the Louisiana Public Service Commission in major rate cases and litigation involving the rates paid by Louisiana customers for electric, gas and telecommunications services. This has included practice before the Louisiana Public Service Commission, the Federal Energy Regulatory Commission and the Federal Communications Commission as well as Louisiana State Courts, and Federal District and Appellate Courts and the United States Supreme Court. Mr. Zimmering assisted in the representation of the Louisiana Commission in the proposal by Entergy Corporation to allocate the vast majority of costs of the Grand Gulf I nuclear unit to Louisiana customers. The result was a savings to Louisiana ratepayers of over $3 billion in the first ten years of operation of the unit. Mr. Zimmering also participated in representing the Louisiana Public Service Commission in litigation against United Gas Pipeline Company for breach of the company's obligations to deliver gas to Louisiana electric utilities. The result was a benefit of more than $300 million to Louisiana ratepayers. He also represented the Louisiana Public Service Commission in a major prudence investigation of the costs incurred by Gulf States Utilities Company in constructing the River Bend I nuclear facility. This representation resulted in a prudence disallowance of $1.4 billion.

PAUL L. ZIMMERING

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New Orleans, Louisiana 70118
(504) 899-9610

Education:

1976 Tulane University School of Law - Juris Doctorate

Honors:

1976	Order of the Coif
1975-76	Assistant Editor - Tulane Law Review
1974-75	Member Board of Student Editors - Tulane Law Review

1971 Brown University - Master of Arts in Teaching

1970 Brown University - Bachelor of Arts Political Science

Experience:

1977 - Present Stone Pigman Walther Wittmann. L.L.C.
546 Carondelet Street, New Orleans, Louisiana 70130

- Admitted to Partnership, January 1, 1982
- Practice includes regulatory litigation before the Louisiana Public Service Commission, the Federal Energy Regulatory Commission as well as state and federal courts, both at the trial and appellate levels.
- Practice also includes general litigation on commercial matters with experience at all levels of trial and appellate practice.

1988 - Present Associate Professor of Law
Tulane University of Law
New Orleans, Louisiana 70118
- Energy Law

Experience (continued):

1976-1977	Law Clerk to the Louisiana Supreme Court Justice, John A. Dixon, Jr. - Preparation of memoranda and draft opinions for Justice of the Louisiana Supreme Court.
1971-1973	High School Teacher, George Mason Junior/Senior High School, Falls Church, Virginia - Taught Social Studies, World History, U.S. Geography, Renaissance History and Reformation History in Washington, D.C. suburban high school.

Experience Representing Louisiana Public Service Commission

Electric Utilities

LP&L Rate Proceedings - Represented Louisiana Public Service Commission in various retail rate proceedings and appeals between 1979 and 1989. Issues included cost of service, rate of return and rate design.

LP&L Decommissioning - Represented the Louisiana Public Service Commission in proceedings involving the establishment of a qualified decommissioning fund for LP&L's nuclear generating unit, Waterford III.

LP&L Nuclear Refinancing - Represented the Louisiana Public Service Commission in a proceeding involving the refinancing and sale-leaseback of a portion of LP&L's Waterford III nuclear generating unit.

LP&L - EOI Transfer - Represented the Louisiana Public Service Commission in proceeding concerning the transfer of the operating license of the Waterford III nuclear unit from LP&L to Entergy Operations, Inc.

LP&L - Waterford III Prudence Investigation - Represented the Louisiana Public Service Commission in a construction prudence investigation of the costs incurred in constructing the Waterford III nuclear unit. This eventually lead to a disallowance of $280 million.

LP&L - United Litigation - Represented the Louisiana Public Service Commission in civil litigation, at the Federal Energy Regulatory Commission and before the Louisiana Public Service Commission in proceedings concerning United Gas Pipeline overcharges to LP&L. This resulted in a recovery of in excess of $190 million to the benefit of Louisiana ratepayers. This proceeding also involved recovery of approximately $113 million dollars which was refunded to Gulf States Utilities ratepayers.

LP&L - Least Cost Planning - Representation of the Louisiana Public Service Commission regarding Least Cost Integrated Resource Plan filed by LP&L with the Commission.

Entergy/GSU Merger Proceedings - Represented the Louisiana Public Service Commission in proceedings pending before the Commission in which Entergy and GSU sought approval of a merger.

Middle South Services - Representation of the Louisiana Public Service Commission at the Federal Energy Regulatory Commission and appeals therefrom in the 1979 filing by Middle South Utilities to amend its System Agreement.

Middle South Services - Participation in 1982 filing by Middle South Utilities to amend its System Agreement at the Federal Energy Regulatory Commission and appeals therefrom.

Middle South Energy - Representation of the Louisiana Public Service Commission in Federal Energy Regulatory Commission proceedings involving the allocation of Grand Gulf nuclear facilities and various appeals of Federal Energy Regulatory Commission orders.

Middle South Energy - Representation of the Louisiana Public Service Commission in proceeding filed by the Louisiana Public Service Commission to lower the return on equity under Middle South's wholesale rate schedules.

SERI Tax Audit Proceedings - Representation of the Louisiana Public Service Commission in proceedings pending before the Federal Energy Regulatory Commission involving the improper allocation of investment tax credits by Entergy on its consolidated tax returns.

SERI ROE Proceedings - Representation of the Louisiana Public Service Commission in proceeding before the Federal Energy Regulatory Commission to lower the return on equity contained in Entergy's formula rate for recovery of costs of the Grand Gulf nuclear facility.

CLECO Rate Proceedings - Represented the Louisiana Public Service Commission in numerous CLECO retail rate increase requests and appeals therefrom.

NOPSI Rate Proceedings - Represented the Louisiana Public Service Commission in NOPSI rate increase request proceedings during the time when Louisiana Public Service Commission had jurisdiction over NOPSI.

SWEPCO Rate Proceedings - Represented the Louisiana Public Service Commission in retail rate increase requests proceedings brought by SWEPCO.

Gulf States Utilities Company - Represented the Louisiana Public Service Commission in numerous Gulf States Utilities rate increase request proceedings from 1977 through 1991

which included issues involving cost of service, rate design, rate of return and requests to include the River Bend I nuclear unit costs in rates.

Gulf States Utilities River Bend Prudence Investigation - Represented the Louisiana Public Service Commission in the Commission's prudence investigation concerning Gulf States Utilities nuclear unit which resulted in a $1.4 billion disallowance.

Gulf States Utilities Company Management Audit - Represented the Louisiana Public Service Commission in Management Audit of Gulf States Utilities.

Gulf States Utilities Company - Southern Companies - Representation of the Louisiana Public Service Commission in proceedings at the Federal Energy Regulatory Commission and appeals therefrom regarding contract dispute between Gulf States Utilities and Southern.

GSU/Cajun Transmission - Representation of the Louisiana Public Service Commission at the Federal Energy Regulatory Commission in proceedings concerning a dispute between Cajun Electric Power Cooperative and Gulf States Utilities Company over an interpretation of transmission agreements regarding service to Louisiana customers.

New England Power Company - Representation of the Louisiana Public Service Commission in generic proceeding before the Federal Energy Regulatory Commission regarding establishment of criteria for recovery of abandoned plant costs.

Natural Gas

United Gas Pipeline Company - Representation of the Louisiana Public Service Commission in action brought by the Federal Energy Regulatory Commission enforcement staff regarding improper collection of charges through the United Gas Purchased Gas Adjustment Clause.

Arkansas Louisiana Gas Company - Representation of the Louisiana Public Service Commission in 1991 rate increase request of ALG.

Arkansas Louisiana Gas Company - Representation of the Louisiana Public Service Commission in proceedings to investigate ALG's gas costs.

Louisiana Gas Service Company - Representation of the Louisiana Public Service Commission in retail rate increase request docket filed by Louisiana Gas Service Company.

Trans Louisiana Gas Company - Representation of the Louisiana Public Service Commission in retail rate increase request filed by Trans Louisiana Gas Company.

Arkla Order No. 636 Restructuring Proceedings - Representation of the Louisiana Public Service Commission at proceedings before the Federal Energy Regulatory Commission

regarding Arkla Energy Resources' plan to unbundle services pursuant to Federal Energy Regulatory Commission Order No. 636.

Arkla Spindown Proceeding - Representation of the Louisiana Public Service Commission in proceedings before the Federal Energy Regulatory Commission in which Arkla proposed to spin-off ALG as a wholly-owned separate corporate entity.

Arkla Wholesale Rate Proceeding - Representation of the Louisiana Public Service Commission at the Federal Energy Regulatory Commission in proceedings to establish wholesale rates to be charged in the post Order 636 environment.

Trans La/LIG Gas Cost Investigation - Representation of the Louisiana Public Service Commission before state district and appellate courts and in investigation pending before the Louisiana Public Service Commission regarding costs passed-through Trans La's PGA.

Electric Cooperatives

Cajun Electric Power Cooperative, Inc. - Representation of the Louisiana Public Service Commission in proceedings before the Commission and various appeals to establish Commission jurisdiction over electric cooperatives in Louisiana.

Cajun Debt Restructure Agreement - Representation of the Louisiana Public Service Commission in negotiations with Cajun and the Rural Electrification Administration to restructure Cajun's debt to the REA.

SWEPCO/BREMCO Merger - Representation of the Louisiana Public Service Commission in Docket filed with the Commission seeking approval of a merger of BREMCO, a local distribution cooperative and SWEPCO, an investor-owned utility.

Distribution Cooperative Investigations - Representation of the Louisiana Public Service Commission in investigations of rate increases instituted by local distribution cooperatives during the period of so called "statutory non-regulation". Representation of the Louisiana Public Service Commission in examination of the prudence of the electric distribution cooperatives entering into long term power supply contracts with Cajun.

Washington St. Tammany Bankruptcy - Representation of the Louisiana Public Service Commission in proceedings before the United States Bankruptcy Court for the Eastern District of Louisiana as well as before the Commission regarding Washington St. Tammany's bankruptcy filing.

Telecommunications

South Central Bell Retail Rate Cases - Representation of the Louisiana Public Service Commission in the 1980, 1982, and 1987 retail rate proceedings and various appeals therefrom.

South Central Bell Depreciation - Representation of the Louisiana Public Service Commission in various litigation concerning appropriate South Central Bell depreciation rates for intrastate plant resulting in a refund of in excess of $170 million to Louisiana customers.

South Central Bell Depreciation - Representation of the Louisiana Public Service Commission in docket pending before the Commission to restructure South Central Bell's depreciation rates.

South Central Bell Management Audit - Representation of the Louisiana Public Service Commission in management audit performed on South Central Bell.

South Central Bell - Cellular - Representation of the Louisiana Public Service Commission in docket filed before the Commission in which South Bell sought restructuring of its cellular interconnection rates.

Generic Telecommunications Subdocket - Representation of the Louisiana Public Service Commission in generic telecommunications subdocket.

COCOT Proceedings - Representation of the Louisiana Public Service Commission in various dockets concerning the establishment of rates and services to be offered by customer-owned coin operated telephones.

Operator Service Provider Guideline - Representation of the Louisiana Public Service Commission and participation in preparation of guidelines for operator service providers in Louisiana.

High Cost Fund - Representation of the Louisiana Public Service Commission in docket to establish a high cost refund to assist high cost telephone companies operating in Louisiana.

AT&T Investigation - Representation of the Louisiana Public Service Commission in investigation of the rates and charges of AT&T.

Teaching, Lectures and Publications

1989 - Present	Lecturer, Assistant Professor, Tulane University School of Law - Energy Law.
1992	Lecture at conference sponsored by Entergy Corporation regarding Least Cost Planning by electric public utilities.
1977	Article, Co-authored with Honorable John A. Dixon, Jr. and Robert W. Booksh, *Res Judicata In Louisiana Since Hope v. Madison,* Tulane Law Review, Vol. 51, 1977.
1976	Comment, *Louisiana's Consumer Protection Law-Three Years Of Operation,* Tulane Law Review, Vol. 50, 1976.
1974-1975	Note, *Divorce-Relitigation Of Fault For The Purpose Of Alimony,* Tulane Law Review, Vol. 49., 1974-1975
1974-1975	Note, *Constitutional Law-Liability For Defamation Of Private Persons-New Standards,* Tulane Law Review, Vol. 49, 1974-1975.

Admissions

United States Court of Appeals for the Fifth Circuit.

United States Court of Appeals for the D.C. Circuit.

United States Court of Appeals for the Eleventh Circuit.

Supreme Court of Louisiana and the State Courts of Louisiana.

United States District Court for the Eastern, Middle and Western District of Louisiana.

Member

American Bar Association

Louisiana State Bar Association

NOEL J. DARCE
BIOGRAPHICAL INFORMATION

Noel J. Darce is a member in the New Orleans law firm of Stone Pigman Walther Wittmann L.L.C. He is a 1983 graduate of the Louisiana State University Law School, where he was on the Louisiana Law Review and was a member of the Order of the Coif. He has represented the Louisiana Public Service Commission in matters pending before the Commission, on appeals of Commission Orders and in wholesale matters before the Federal Energy Regulatory Commission for the past eleven years. In addition he is engaged in a commercial litigation practice with emphasis on energy related matters.

Noel Darce has represented the Louisiana Commission in various retail rate proceedings involving LP&L, EGSI, CLECO, and South Central Bell. He has participated in the prudence investigations of LP&L's interest in Waterford III, Cajun's participation in River Bend and in the appeals of the prudence disallowance of Gulf State's decision to build River Bend. He has acted as counsel, both before the Commission and at the FERC, in the Entergy/GSU merger proceedings. he has represented the Louisiana Commission at the FERC and the SEC in several proceedings involving ELI, the Entergy System, Cajun Electric and EGSI. He represented this Commission in the Cajun Electric Bankruptcy.

NOEL J. DARCE

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Education

Louisiana State University
Paul M. Herbert Law Center
Baton Rouge, Louisiana
Degree: Juris Doctorate - 1983

Honors: Louisiana Law Review,
Order of the Coif

Louisiana State University
Baton Rouge, Louisiana
Degree: B.A. Political Science
Date of Graduation: May, 1980

Honors: Alumni Federation Scholarship Recipient
Phi Kappa Phi Honorary Society

Legal Experience

Member
Stone Pigman Walther Wittmann L.L.C.
546 Carondelet Street
New Orleans, Louisiana 70130

Engaged in General Commercial Litigation. Area of litigation experience include antitrust, complex business disputes, oil & gas, public utility law, contract disputes, bankruptcy and securities litigation. Practice has included representation of the Louisiana Public Service Commission before state and federal courts and federal agencies, as well as matters pending before the Commission.

Experience Representing Louisiana Public Service Commission

LP&L Rate Proceedings - Represented LPSC in LP&L various retail rate proceedings and appeals between 1983 and 2000.

CLECO Rate Proceeding - Represented LPSC in 1985 CLECO rate proceeding and appeals.

Cajun Electric - Represented LPSC in appeals to establish Commission jurisdiction over electric cooperatives, in the Cajun Electric Bankruptcy, and in rate cases.

Dixie Electric - Represented LPSC in refund proceeding and appeals from Commission orders.

Prudence Investigations - Represented LPSC in prudence investigations of LP&L's Waterford III nuclear unit, Cajun's participation in River Bend nuclear unit and in the appeals of prudence disallowance of Gulf State's interest in River Bend.

South Central Bell - Represented LPSC in 1982 rate proceeding and various state and federal appeals resulting therefrom and in 1987 rate proceeding.

Entergy/GSU Merger Proceeding - Represented LPSC in state proceeding related to Entergy/GSU merger.

Restructuring – Represented the LPSC in aspects of restructuring proceedings.

Experience Representing LPSC Before The FERC

Middle South Energy - FERC proceeding involving the allocation of the Grand Gulf Nuclear facility and various appeals of FERC orders.

Middle South Energy - FERC proceeding to lower return on equity under Middle South's wholesale rate schedules.

Louisiana Power & Light Co. - FERC proceeding involving the collection by LP&L of improper costs under wholesale tariffs.

SERI Tax Audit Proceeding - Two separate FERC proceedings involving the improper allocation of investment tax credits by Entergy on consolidated tax returns.

United Gas "Accrue But Don't Pay" Proceeding - Involved collection by United Gas of improper costs under FERC approved formula rates.

SERI ROE Proceedings - Two separate proceedings to reduce the fixed return on equity component of Entergy's formula rate.

Cajun v. GSU - FERC proceeding involving dispute between Cajun and Gulf States over interpretation of transmission agreements affecting which utility could serve Louisiana retail customers.

SERI Decommissioning Proceeding - FERC proceeding involving increase of wholesale rates based on the costs of decommissioning the Grand Gulf Nuclear Unit.

Arkla Order 636 Restructuring Proceeding - FERC involving proceeding Arkla Energy Resources plan to unbundle services pursuant to FERC Order No. 636.

Arkla Spin Down Proceeding - Involved AER transforming Arkansas Louisiana Gas from a division to a wholly owned separate corporate entity.

Arkla Rate Proceeding - Related to wholesale rates of AER pipeline to be charged for post-636 restructured services.

GSU/Entergy Merger - FERC proceeding to approve the Entergy/GSU merger.

FERC ERS Proceeding - FERC proceeding investigating violations by Entergy of its formula rates.

CSW/El Paso Proceedings - Various FERC dockets seeking approval of the merger of El Paso Electric into Central and South West Services Holding Company.

CSW/AEP Merger – LPSC and FERC proceeding related to AEP/CSW merger.

SEC Matters - Has represented the LPSC in various matters involving Entergy Corporation pending before the SEC.

Other Significant Representations

Texas Eastern v. OKC, et al. - Proceeding in federal court in which interstate gas pipeline attempted to invalidate long term gas purchase contract.

Texaco v. State of Louisiana - Represented State of Louisiana against Texaco claim for overpaid royalties and severance taxes arising out of Texaco's settlement with the Department of Energy for violation of crude oil price control regulations.

In re: Freddie Pitre - Represented municipal water district in Iberville Parish in ad valorem tax dispute over funds used to operate water system.

CertainTeed Corporation v. North Central Utilities - Represented pipe suppliers in contract dispute involving construction of municipal water supply system.

Vieux Carré Property Owners v. Col. Lloyd Kent Brown - Represented Audubon Park Commission in federal appeals related to attempt by a citizens group to block construction of the Aquarium of the Americas.

Admissions

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals for the D.C. Circuit

Supreme Court of Louisiana and the state courts of Louisiana

United States District Court for the Eastern, Middle and Western District of Louisiana

Member

American Bar Association

Louisiana State Bar Association

New Orleans Bar Association

Federal Energy Bar Association

Federal Energy Bar Association - New Orleans Chapter (Former Member Board of Directors)

Civic

Law Firm Representative United Way (1991-1993)

United Way YLDP Participant

Past Member, Board of Directors People's Methodist Community Center (United Way Agency)

Representative Archbishop's Community Appeal

DANA M. SHELTON

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Wittmann L.L.C.
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3520 Constance Street
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EDUCATION:

TULANE LAW SCHOOL, New Orleans, LA
Juris Doctor, *Magna Cum Laude,* 1996
Certificate of Specialization in Environmental Law
Order of the Coif
Tulane Law Review
Moot Court Board
Best Oralist Award

NEWCOMB COLLEGE, TULANE UNIVERSITY,
New Orleans, LA
Bachelor of Arts, *Magna Cum Laude*, Department Honors in English, 1993
Major: English. Minor: Political Science.

WORK EXPERIENCE:

Stone Pigman Walther Wittmann L.L.C. — 1997 to Present
Admitted to Partnership, January 1, 2003

Justice Walter F. Marcus, Louisiana Supreme Court
Law Clerk — 1997

Justice Jack C. Watson, Louisiana Supreme Court
Law Clerk — 1996

Professor A. N. Yiannopoulos
Research Assistant — 1995-1996

Sierra Club Legal Defense Fund
Law Clerk — Summer 1995

Judge Edith B. Clement, United States District Court for the Eastern District of Louisiana
Law Clerk — Summer 1994

ADMISSIONS: All Louisiana State and Federal Courts

MEMBERSHIPS: Louisiana State, Federal and American Bar Associations

EXPERIENCE REPRESENTING THE LOUISIANA PUBLIC SERVICE COMMISSION:

Entergy Gulf States, Inc. Earnings Reviews – Represented the Louisiana Public Service Commission in proceedings reviewing the rates of Entergy Gulf States, Inc. in several annual post-merger earnings reviews from 1999 to 2005.

Summer Power Purchase Contract Review, Entergy Louisiana, Inc. and Entergy Gulf States, Inc. – Represented the Louisiana Public Service Commission in a prudence review of purchase power acquisitions of *Entergy Louisiana, Inc.* and *Entergy Gulf States, Inc.* in Summer 2001 and 2002.

Fuel Audit, Entergy Louisiana, Inc. – Represented Louisiana Public Service Commission in review of Entergy Louisiana, Inc.'s fuel adjustment clause billings.

Transmission and RTO Matters – Represented the Louisiana Public Service Commission in various proceedings at both state and federal levels regarding RTO development and proposed federal transmission and wholesale energy market rules.

Entergy System Agreement Cases – Represented the Louisiana Public Service Commission before the Federal Energy Regulatory Commission and related state proceeding in cases challenging Entergy's administration of its System Agreement and seeking production cost equalization among Entergy's operating companies.

OTHER SIGNIFICANT REPRESENTATIONS:

State of Louisiana v. W.R. Grace – Represented W.R. Grace in products liability suit seeking hundreds of millions of dollars to abate asbestos in state buildings.

Clerks of Court, Sheriffs and Assessors Retirement Funds v. The City of New Orleans – Represented the City of New Orleans in several suits alleging under-payments by the City of New Orleans to various retirement funds.

Bentley Companies v. T.L. James, Inc. – Represented T.L. James in dispute over long-term timber lease.

Product Liability Representation – Represented Norton Company, Textron, Inc., and Union Pump Company in multiple product liability cases across the state.

PUBLICATIONS:

Note, *The Fifth Circuit Upholds Federal Ban on Casino Gambling Advertising Against First Amendment Challenge: Greater New Orleans Broadcasting Association v. United States,* 70 TUL. L. REV. 1725 (1996).

Note, *The Fifth Circuit Contracts the Compulsory Pilot Defense and Expands the Vessel Master's Duty to Monitor Compulsory Pilots: Avondale Industries v. Industrial Marine Carriers,* 19 TUL. MAR. L. J. 485 (1995).

IV. FIRM DESCRIPTION

STONE PIGMAN WALTHER WITTMANN L.L.C.

COUNSELORS AT LAW

A Limited Liability Corporation

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A. INTRODUCTION

Founded in New Orleans in 1929 by Judge John Minor Wisdom and Saul Stone, Stone Pigman Walther Wittmann L.L.C. has maintained a commitment to excellence that has guided its development as a firm. Singled out by *The American Lawyer* as "one of the best law firms in the country," Stone Pigman has "quietly built a practice that's as good . . . as those of many 200-lawyer firms in New York, Chicago, and Los Angeles." "Our strategy here is to offer high-quality legal products and services. We believe that if we demonstrate superior capability and performance, we can sustain our niche in the top end of the legal market. We intend to continue to hire lawyers carefully and selectively and to target the market for high quality legal services."

The firm's commitment to excellence begins with its hiring policy. It seeks out only those lawyers and law students whose academic performance has been superior. The firm is well known in the legal community for its selectivity in hiring and high standards. The vast majority of the firm's lawyers have graduated in the top five percent of their classes and served on the law reviews of their law schools. Currently, several lawyers serve as active, adjunct faculty at Tulane, Loyola, and LSU law schools.

The high quality of its legal practice has also given the firm the reputation of being "lawyers'." Many of its fellow law firms have turned to the firm to represent them in their business and litigation matters as well as referring clients with complex matters.

Over the last several years, Stone Pigman has emerged as a major, full-service regional law firm in the Gulf South. In addition to its ability to handle complex client concerns, the firm is able to provide a full depth of service in virtually all areas of law.

The firm is informally divided into business and litigation sections. Within those general sections, lawyers have developed special expertise in particular areas of legal practice. The firm's practice is primarily concentrated within the fields of business and business litigation; corporate and securities; real estate and financing; public utility regulation; environmental law and natural resources; health law; litigation (including securities related litigation, banking litigation, bankruptcy litigation, general commercial litigation, media law, personal injury and products liability litigation, antitrust litigation, environmental litigation); alternative dispute resolution (including mediation and arbitration, employment litigation); taxation, trusts and estates, ERISA and executive compensation. The clients of the firm are very diverse and include individuals, regional businesses, multi-national corporations, and federal and state regulatory agencies.

The firm and its members have been actively involved in civic and professional activities. For example, one member is currently President of the Louisiana State Bar Association. Five of the firm's members served as chairman of the Corporation and Business Section of the Louisiana Bar Association. Firm members have served as officers and board members of such civic organizations as Arts Council of New Orleans, Bureau of Governmental Research, Tulane University, Tulane Medical Center, Kingsley House, Louisiana Civil Service League, Preservation Resource Center, The Audubon Institute, Greater New Orleans Foundation, The Children's Bureau, Council for a Better Louisiana, Cancer Society, Goodwill Industries of

Greater New Orleans, Jewish Family Services, LSU Alumni Federation, Newman School, and Trinity School.

B. FIRM HISTORY

Stone Pigman Walther Wittmann L.L.C. was founded in 1929 by Saul Stone, and John Minor Wisdom, who before his death was a senior judge on the Fifth Circuit. The original practice of the firm consisted largely of real estate work. In the 1940s Stone and Wisdom began representing a group of retail liquor dealers, including a chain of supermarkets owned by the Schwegmann family, in their opposition to the price-fixing laws in Louisiana. The first Schwegmann case that brought national attention was the invalidation of a state statute that provided for mandatory price fixing of all alcoholic beverages at each distribution level. Subsequently, Stone and Wisdom waged a major attack on fair trade price fixing in the U.S. Supreme Court, where a state law requiring non-signers to adhere to price-fixing arrangements between distributors and signing retailers was declared invalid. The firm has continued to represent the supermarket chain in its ongoing battles to eliminate price fixing in the whiskey and milk industries. By the 1950s the firm had developed a strong corporate and tax-oriented practice. In the 1970s and 1980s the litigation practice grew rapidly and increasingly involved sophisticated matters in the areas of securities, economic regulation, oil and gas, utility regulation and antitrust.

Stone Pigman has developed a regional practice characterized by complex business representation and sophisticated litigation, sustained by a policy of hiring only the "best and the brightest" law school graduates. In a July/August 1986 article entitled "Stone Pigman's Elite Mystique," *The American Lawyer* called the firm "one of the best law firms in the country," characterizing it as "a profitable maverick that has virtually cornered the market for top recruits." Its practice encompasses virtually all services required by corporate and institutional clients.

Since its founding in 1929, Stone Pigman has grown carefully and slowly. Although it recognizes the need to grow to serve its expanding clientele, the firm has insisted on maintaining high standards for hiring of associates and acceptance of work. The firm currently consists of 28 members, 1 of counsel, 2 special counsel, 4 staff attorneys, and 17 associates.

Through the years the firm has maintained an atmosphere of collegiality among its lawyers. This collegiality is fostered by the membership lock-step compensation system, which promotes cooperation rather than competition among members. Its high recruiting standards have enabled the firm to have minimal associate attrition and admit most of its associates to membership, further enhancing collegiality between the younger and more senior lawyers in the firm.

C. LITIGATION

Stone Pigman is known for its pre-eminent litigation practice throughout the Gulf South and the nation. The firm has wide experience in handling securities litigation, banking litigation, bankruptcy litigation, general commercial litigation, media law, oil and gas litigation, personal injury and products liability litigation, antitrust litigation and public utility regulation, alternative dispute resolution, environmental litigation and employment litigation. Lawyers within the litigation section have developed a variety of practice specialties, and often practice in more than one of the areas listed. The regional practice embraces matters in Louisiana, Mississippi, Texas, Alabama and other states.

1. Public Utility Regulation

The firm has represented the Louisiana Public Service Commission since 1976 as special counsel in major rate cases and litigation involving the charges paid by Louisiana customers for electric, gas and telecommunications services. Michael R. Fontham, Paul L. Zimmering and Noel J. Darce have practiced before the Louisiana Public Service Commission, the United States Supreme Court, federal district and appeals courts, the Federal Energy Regulatory Commission and the Federal Communications Commission, and Louisiana state courts. The rate cases and other litigation have involved numerous utilities and carriers including Entergy, Inc., Louisiana Power & Light Company, Arkansas Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service, Inc., Central Louisiana Electric Company, Inc., Southwestern Electric Power Company, Inc., Cajun Electric Power Cooperative, Inc. and its distribution cooperatives, United Gas Pipe Line Company, AT&T Communications Company, South Central Bell Telephone Company, ARKLA, MCI Telecommunications Company, US Sprint, and other electric, gas and telecommunications companies.

Fontham, Zimmering and Darce successfully challenged before the FERC and through the appellate courts a Middle South Utilities, Inc. (now Entergy Corporation) plan to allocate about 70 percent of the costs of the Grand Gulf I Nuclear Unit to Louisiana operating companies owned by Middle South. The proceedings resulted in a savings to Louisiana ratepayers of over $3 billion in the first ten years of the operation of the nuclear unit. In a major telecommunications proceeding, the firm challenged the Federal Communication Commission's attempt to preempt the authority of state regulatory commissions to set depreciation rates for intrastate telecommunications equipment, and secured a refund from South Central Bell Telephone Company of approximately $220 million in overcharges. The firm's representation of the Louisiana Public Service Commission in litigation against United Gas Pipe Line Company for breach of the company's obligation to deliver gas to Louisiana Power & Light Company and Gulf States Utilities Company resulted in benefits of more than $300 million to Louisiana ratepayers. The firm represented the Louisiana Public Service Commission in a major prudence investigation of the costs incurred by Gulf States Utilities, Inc. in constructing the River Bend I nuclear facility. This representation resulted in a prudence disallowance of $1.4 billion.

2. Banking Litigation

In recent years Stone Pigman has been involved in a wide variety of banking litigation, ranging from the defense of financial institutions in lender liability actions, complex litigation involving a failed bank merger, the prosecution of professional liability suits arising from bank and thrift failures, and the defense of directors and officers against shareholder claims. Barry W. Ashe has represented banks in fidelity bond and directors and officers insurance claims. Additionally, the firm has served as trial counsel for the FSLIC and FDIC in numerous cases arising from Louisiana, Texas and Florida bank and thrift failures. Phillip A. Wittmann and James C. Gulotta, Jr. represented the FSLIC in litigation arising from the collapse of Gulf Federal Savings Bank in Metairie, Louisiana, obtaining a $35 million verdict against Gulf's former attorney and board chairman. Ashe represented the FDIC in litigation arising out of the collapse of the Bank of Commerce of Shreveport, Louisiana, obtaining a $28 million verdict against an insurance company and several directors and officers. On behalf of the FDIC, the firm led several teams of lawyers in prosecuting professional liability litigation arising from the failures of financial institutions in Louisiana, Texas, and Florida, including a case arising out of the failure of Freedom Savings & Loan Association, one of the largest savings and loan associations in Florida. The firm represented as co-counsel Union Plasters Corporation and Union Plasters National Bank in litigation arising out of a failed bank merger.

The firm also has expertise in litigation involving banking insurance. Ashe represented as co-counsel First National Bank of Louisville, Kentucky, in a claim against its fidelity bond carrier and succeeded in obtaining a jury verdict in excess of $20 million from the carrier. In addition, most of the firm's work on behalf of the FDIC has involved significant issues of insurance coverage under directors and officers liability policies.

3. Bankruptcy Litigation

John M. Landis and Michael Q. Walshe, Jr. assisted by several associates, conduct an active bankruptcy practice on behalf of both creditors and debtors. Landis represented debtors in substantial Chapter 11 cases, including MMR Holding Corporation, a publicly-held national electrical and mechanical contractor with gross annual receipts of nearly $500 million. The MMR case is believed to be the largest reorganization ever filed in Louisiana. In the reorganization of Three Lakeway Center Partnership, owner of an office and hotel complex in the suburbs of New Orleans, Landis was retained to represent a group of lenders led by Carteret Savings Bank of Morristown, New Jersey that had made an $82 million construction loan to the debtor. The firm was appointed to represent the Chapter 11 trustee in the Worldwide Gaming reorganization, the first major bankruptcy to come out of Louisiana's legalized gaming industry. The firm also represents numerous financial institutions and commercial lenders in reorganizations and workouts.

4. General Commercial Litigation

The firm routinely undertakes representation in complex contract and business disputes. One prominent example is the representation by Phillip A. Wittmann of International Paper Company in a dispute arising from a timber lease of 200,000 acres of land in Louisiana and Mississippi. The lessors claim damages exceeded $250 million. The firm also has experience in patent litigation, with Wittmann representing the Laitram Corporation in several patent infringement cases. The firm has represented Dillard Department Stores, Inc. in a variety of commercial litigation matters, including complex litigation involving an unfunded deferred compensation plan for the executives of D. H. Holmes Co., Ltd., which Dillard's acquired in 1989. Wayne J. Lee has experience defending trademark and infringement claims, as well as unfair trade practice litigation, in both federal and state courts.

5. Oil and Gas Litigation

Over the years the firm has provided counseling in numerous disputes involving the oil and gas industry. The firm represented the State of Louisiana for six years in litigation against Texaco Inc. involving the underpayment of royalties on mineral leases granted by the State. That litigation was recently settled for $250 million cash, the dismissal of a $225 million claim against the State, the implementation of a $152 million drilling program on State properties, a comprehensive development program for underdeveloped State leases, and other benefits to the State. Phillip A. Wittmann James C. Gulotta, Jr., C. Lawrence Orlansky and Noel J. Darce successfully represented the Dallas-based OKC Limited Partnership in litigation against Texas Eastern Transmission Corporation on a multi-million dollar claim arising out of a long-term natural gas purchase contract.

6. Personal Injury and Products Liability Litigation

James C. Gulotta, Stephen G. Bullock, and Mary L. Dumestre, have developed expertise in the defense of asbestos product liability claims. The firm represents W. R. Grace in defending asbestos property damage claims arising throughout the State of Louisiana.

7. Antitrust Litigation

The firm has had an active antitrust practice for many years, beginning with the representation of Schwegmann Giant Super Markets, a New Orleans-based grocery chain, in the prosecution of price-fixing claims in the 1940's and 1950's. Phillip A. Wittmann represented a number of plaintiffs, including Amoco and Exxon, in litigation involving allegations of a multi-million dollar price-fixing conspiracy in the marine construction industry. Wittmann and Paul L. Zimmering also successfully defended a film exhibitor's Sherman Act claim brought in Memphis against several national film distributors, including Paramount, Universal, MGM and Columbia. As an outgrowth of his active civil antitrust practice, Wittmann has developed a substantial practice in the defense of criminal antitrust cases, successfully defending an oilfield services contractor against criminal charges brought by the United States Department of Justice in federal court in New Orleans.

8. Environmental Litigation

Stone Pigman's interdisciplinary approach to natural resources and environmental law also has permitted it to provide comprehensive representation of clients litigating environmental liability and compliance issues. Michael R. Schneider and other successfully concluded a lawsuit asserting a private right of action under CERCLA to recover costs incurred by a developer that abated asbestos discovered during demolition. Phillip A. Wittmann James C. Gulotta, Jr. and Stephen G. Bullock have represented a number of defendants in asbestos litigation.

9. Alternative Dispute Resolution

The firm has recently organized an alternative dispute resolution (ADR) practice group to meet the growing demands nationwide for alternatives to conventional litigation. This group consists of several members with a wide range of experience in a number of different substantive areas of law, who are trained in ADR methods and techniques and are available to serve as mediators and arbitrators. The group includes lawyers who are certified as arbitrators and/or mediators with the American Arbitration Association and the National Association of Securities Dealers, and who are registered mediators in the Orleans Parish Civil District Court Pilot Program.

10. Employment Litigation

The firm represents a number of clients in employment litigation and has defended clients against claims of sexual harassment, religious harassment, sex and race discrimination, as well as claims brought pursuant to the Americans with Disabilities Act, the Age Discrimination in Employment Act and the Civil Rights Acts of 1964 and 1991. It has appeared before the EEOC and in federal and state courts, including the United States Supreme Court, on employment related claims. William D. Treeby and Wayne J. Lee have developed expertise in employment litigation. Representative clients include Exxon Corporation, Burger King, Red River Shipping Corporation, State Farm Mutual Automobile Insurance Company and Ochsner Clinic.